

PARTS 9400–9404 [RESERVED]

PART 9405—PROCEDURES FOR DISCLOSURE OF RECORDS UNDER THE FREEDOM OF INFORMATION ACT

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AUTHORITY: 5 U.S.C. 552, as amended.

SOURCE: 73 FR 54257, Sept. 18, 2008, unless otherwise noted.

§ 9405.1 Purpose and scope.

The regulations in this part implement the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, with respect to the availability of records for inspection and copying.

§ 9405.2 Definitions.

As used in this part, the term—

Chief FOIA Officer means the person designated under § 9405.3(d) who has Commission-wide responsibility for the efficient and appropriate compliance with the FOIA.

Commercial use request means a FOIA request from or on behalf of a person who seeks information for a use or purpose that furthers his/her commercial, trade, or profit interests, which can include furthering those interests through litigation. The FOIA Officer will determine, whenever reasonably possible, the use to which a requester will put the requested documents. Where the FOIA Officer has reasonable cause to doubt the use for which the requester claims to have made the FOIA request or where that use is not clear from the FOIA request itself, the FOIA Officer will seek additional clarification

before assigning the request to a specific category.

Commission means the U.S. Election Assistance Commission, established by the Help America Vote Act of 2002, 42 U.S.C. 15301 *et seq.*

Commissioner means an individual appointed to the Commission by the President and confirmed by the Senate under section 203 of the Help America Vote Act of 2002, 42 U.S.C. 15323.

Direct costs means those expenditures which the Commission actually incurs in searching for, duplicating, and, in the case of commercial use requesters, reviewing documents to respond to a FOIA request. Direct costs include, but are not limited to, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of that basic rate to cover benefits) and the cost of operating duplicating equipment. Direct costs do not include overhead expenses, such as the cost of space and heating or lighting the facility in which the records are stored.

Duplication means the process of making a copy of a document necessary to respond to a FOIA request. Examples of the form such copies can take include, but are not limited to, paper copy, microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape, DVD, or CD). The Commission will honor a requester's specified preference of form or format of disclosure if the records requested are reasonably reproducible with reasonable efforts in the requested form or format.

Educational institution means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institute of graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

Executive Director means the Executive Director of the Commission or his or her designee.

FOIA means Freedom of Information Act, 5 U.S.C. 552, as amended.

FOIA Officer means a person designated by the Chief FOIA Officer under § 9405.3(d) to carry out day-to-day